IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5526 OF 2005
IN
CRIMINAL APPEAL NO. 797 OF 2005

Prakash Anant Vichare & Anr ...Applicants

Versus

State of Maharashtra & Anr ...Respondents

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Mr. Rajiv Patil i/b K.S. Patil, Advocate for Applicants

Mr. D.P. Adsule, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 9TH SEPTEMBER, 2005

P. C.:-

1. Heard the learned advocate for the applicants and the learned A.P.P. for the State.

2. The applicants are seeking bail. The applicants have been convicted under Section 307 of I.P.C.

3. The learned advocate for the applicants has submitted that the applicants were on bail pending the trial and this liberty has not been misused by them. This statement has not been controverted by the prosecution.

4. Mr. Patil, the learned advocate for the

applicants has further submitted that though the applicants have been convicted under Section 307 of I.P.C., the medical evidence on record does not support the case of the prosecution. He has pointed out the evidence of P.W.7 Dr. Pandya. Dr. Pandya has categorically stated that none of the injuries would result in the death of the patient. There is only one person who sustained the injuries in the said incident i.e. P.W.1 Ganpat Desai. As per Dr. Pandya the injured person had sustained the following three injuries.

i) Right frontal region 4 cm sutured and sealed wound.

ii) Occipital region 6 cm sutured and sealed.

iii) The injured had left eye edmia.

. It is an admitted fact that eye sight of P.W.1 has not affected. Moreover, Dr. Pandya does not state anywhere that P.W.1 sustained fracture. Looking to the categorical statement of Dr. Pandya that none of the injuries could result in the death of the patient and the nature of injuries. I find much merit in

this submission made on behalf of the applicants.

5. Moreover, in the present case, one of the co-accused was also injured in the incident i.e. original accused No.1 who had sustained fracture to the right wrist and also injury on parietal region. Its size was 3/4 inch x 1/4 inch. CLW over right frontal bone 1/2 x 1/4 inch bone deep. No explanation has been given by the prosecution for the injury of accused No.1. Looking to these facts, it appears that the genesis of the incident has been suppressed. Looking to all these facts, I am inclined to grant bail to the applicants.

6. Each of the applicants i.e. 1) Prakash Anant Vichare and (2) Ramesh @ Ravi Anant Vichare to be released on bail in the sum of Rs.25,000/- with one or two sureties to make the said amount. The applicants shall report to Kherwadi police station on first Sunday of every month during the pendency of the appeal.

5. Application is disposed of.

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